

Initial Statement of Reasons  
Title 13, Division 1, Chapter 1  
Article 3.6 – Business Partner Automation Program

The Department of Motor Vehicles (department) proposes to amend sections 225.00, 225.03, 225.09, 225.12, 225.15, 225.30, 225.35, 225.39, and 225.42, in Article 3.6, Chapter 1, Division 1, Title 13 of the California Code of Regulations, relating to the Business Partner Automation (BPA) Program to administer provisions relating to Section 1685 of the Vehicle Code.

**I. BACKGROUND AND EXPLANATION OF PROBLEMS ADDRESSED**

**Background Summary:**

Section 1685 of the Vehicle Code establishes the Business Partner Automation (BPA) program. The BPA program has been providing registration and titling services to vehicle owners since its adoption in 2000. The program permits the department to enter into contracts and issue permits for three types of private industry partners who may electronically transmit registration and titling information to and from the department in order to serve the public efficiently, particularly the vehicle buying public. The entire BPA program alleviates the delay and expense of travel to a field office to effectuate vehicle registration and titling transactions. Under established departmental regulations, first-line service providers enter into a contract with the department and also must obtain a permit to operate. The second-line partner, who relies on the first-line provider to submit registration information to the department electronically, may do so with just a permit issued by the department. Vehicle Code section 1685 subdivision (b)(2)(A) authorizes the department to charge fees to process permit applications. The department issues a permit for primary business locations and for each site location that a partner may establish. The statute and the regulations contain provisions to protect department assets and to ensure information security for registration transactions.

**Problem Addressed by these Regulations:**

The department has identified one main area in which a problem exists. The current BPA permit application fee structure is not sufficient to allow the department to adequately recoup the costs associated with processing original or renewal permit applications. Business partners currently pay a fee of \$324 for their principal place of business and a fee of \$130 for each site added with the application. The renewal application fee is \$198 for a principal place of business and there is no renewal fee for site location. The department has found that, at the time of original application, business partners with several sites are paying a site fee that does not adequately cover the costs to the department for processing each site application. Further, the department is recovering no costs associated with site permit renewals. This proposed action will adjust fees in an amount sufficient to cover the costs of the application review process.

**II. NECESSITY OF EACH PROPOSED ADOPTION TO ACCOMPLISH THE STATED PURPOSE:**

Each proposed section is reasonably necessary to achieve the purpose of maintaining and improving the efficiency and effectiveness of the BPA Program. For each proposed section, the department's rationale for selecting the proposal to fulfill the need and achieve the stated benefit is described.

**§ 225.00 Definitions.**

The definition of the term "BPA permit" or "permit" is revised to remove the form previously incorporated by reference. The requirements on the form are made part of this definition. This change does not have a regulatory effect.

Necessity:

The form choice will be an internal management practice. This is a change without regulatory effect.

**§ 225.03 Application Requirements for all Business Partners.**

In subsection (b), the application fee for an original permit is reduced from \$324 to \$305 for a principal place of business, and is increased from \$130 to \$232 for a site.

Necessity:

A recent departmental review has determined that the current fee structure does not reflect the actual costs of processing original applications. Specifically, business partners with several sites are currently paying a site fee that does not adequately cover the costs to the department for processing each site application. To restore equity, the amended site fee will ensure the BPA program adequately recoups site application processing costs, while reducing the original application fee for a principal place of business. Detailed costing documents, including the Economic and Fiscal Impact Statement (Form STD 399), can be requested by contacting the departmental representative identified on the Notice of Proposed Action.

In subsection (e), an owner of a business partner who also holds an Occupational License issued by the department need not submit fingerprints if the department already has fingerprints on file.

Necessity:

The current rule does not ensure the department has prints on file because it relies on the act of the applicant submitting the fingerprints rather than the department having received the fingerprints. This amendment does not substantively change the rule, but the amendment will remove any potential ability for an applicant to assert a waiver of the fingerprint requirement merely based on a prior submission of the fingerprints. If the submission was ineffective or the document mishandled, the department can ensure it obtains all necessary fingerprints.

### **§ 225.09 Financial Security Requirements.**

The bond form version date is changed to reflect an updated bond form is used. The updates remove discrepancies between the earlier version and the current regulations.

#### Necessity:

The non-substantive changes to the bond form delete reference to inoperative sections of Title 13. The 2012 revision to Article 3.6 removed the sections from Title 13. Specifically, sections 225.09(b)(3) and (b)(3)(A) listed on the 2008 version no longer exist in Title 13. This is the only change to the bond form dated 12/2011.

### **§ 225.12 First-Line Business Partner or First-Line Service Provider Business Partner Contract.**

The version date on STD 213 is removed.

#### Necessity:

The form is adopted by Department of General Services (DGS) under its authority to implement procedures under the Public Contract Code. The version date is not subject to selection by the department, as the department must use the form version currently required by DGS. For this reason, this outdated reference is removed and doing so has no regulatory effect.

### **§ 225.15 BPA Permit Authority.**

Subsection (d) makes non-substantive clarifying changes to the existing requirement that a permit holder post the permit for the period of its validity. The period of validity is clarified for sites added after a principal place of business permit has been issued. Reference to Government Code section 15376 is deleted.

#### Necessity:

Consistent with the amendment to Section 225.00(c) of this proposed action, the name and version number of the internal management document used as a permit is removed. For clarity, the section of these regulations that authorizes the department to cancel a permit is referred to in the regulation. Including it here removes any ambiguity between the duration rule in this section and the early termination provision of section 225.18. Also, clarifying that a site permit is valid during the period of the principal place of business permit reflects current practice. Sites and principal places of business share an occupational license and a site cannot be permitted if the principal place of business is not. Last, Government Code section 15376 contained a requirement that all applications for any permit submitted to state agencies be processed in an established timeframe.

Reference to Government Code section 15376 in the Note section is removed because that statute has since been repealed.

### **§ 225.30 Electronic Fund Transfer.**

Change without regulatory effect.

Necessity: corrects the name of the form previously adopted and mis-named in the prior regulation.

### **§ 225.35 Renewal.**

In subsection (a)(4), the renewal application fee is reduced from \$198 to \$144 for a principal place of business, and a fee of \$134 is added for a site.

Necessity:

A recent departmental review has determined that the current fee structure does not reflect the actual costs of processing renewal applications. Specifically, business partners do not currently pay renewal fees for site locations. The adoption of a site renewal fee will allow the department to more accurately charge business partners with one or more sites for the workload involved in processing the renewal application. Detailed costing documents, including the Economic and Fiscal Impact Statement (Form STD 399), can be requested by contacting the departmental representative identified on the Notice of Proposed Action.

In subsection (b), text is revised to match the change to the definition of “BPA Permit” in section 225.00, and redundant language was removed.

Necessity:

The term “BPA permit” as defined in section 225.00 is used here. This change maintains consistency with the amendments to Section 225.00, and has no regulatory effect. Other deletions remove surplus language and retain the meaning, which is that no transactions may be processed if a business partner’s permit is not current and valid.

### **§ 225.39 Business Partner Responsibilities.**

Grammatical corrections are made for clarity.

Necessity:

The changes in subsection (a) are non-substantive. They conform the grammar to regulatory style by changing the present participle verb form to present tense. Subsection (a)(5) was included in subsection (a)(4) by adding the verb “use” which does not change the obligation of the first-line service provider as it currently exists to use the established tracking system to account for departmental registration stickers and other assets. The phrase “implement and maintain” in regard to the service provider’s duties reflects the service provider’s obligation to implement and maintain regulatory requirements once they are “established” in order to successfully renew its permit. The terms clarify these existing requirements by explicitly including them in the regulation defining the service provider’s requirements.

### **§ 225.42 Business Partner Changes.**

Subsection (a)(3) The permit application fee for adding a site office, after a principal place of business permit has already been issued, is increased from \$175 to \$232.

Necessity:

The problem addressed by this proposed change is that the cost to process a change of application to add a site is the same as the cost to process an original site application. As explained previously, the cost, for each, is \$232, not \$175. This change addresses the problem of the department collecting fees not sufficient to cover the cost of processing applications. Since the department interprets the fee provision in Vehicle Code section 1685 to allow for a full recovery of application processing costs, this adjustment is necessary.

Subsection (a)(6) changes 1856 to 1685 in reference to the Vehicle Code.

Subsection (c)(1) completes the inadvertently omitted form number and date as corrected in section 225.30 above.

Necessity:

These amendments to subsection (a)(6) and (c)(1) have no regulatory effect. They correct the typographical errors. Vehicle Code 1865 doesn't exist and section 1685 contains the BPA statute. The full form name was omitted previously in error.

### **III. ECONOMIC IMPACTS OF PROPOSED REGULATION**

#### **Economic Impact Assessment (Government Code section 11346.3):**

The department has made the following determinations when assessing the economic impact associated with this proposed regulation:

- **The Creation or Elimination of Jobs within the State of California:** As these proposed regulations only reset application fees to recover the cost of processing each application type, the department does not anticipate that this proposed action will have any impact on the creation or elimination of jobs within the State of California.
- **The Creation of New Businesses or the Elimination of Existing Businesses within the State of California:** As these proposed regulations only reset application fees to recover the cost of processing each application type, the department does not anticipate that these proposed regulations will create new businesses or eliminate existing businesses in the State of California.
- **The Expansion of Businesses Currently Doing Business within the State of California:** As these proposed regulations only reset application fees to recover the cost

of processing each application type, these proposed regulations are unlikely to expand businesses within the State of California.

- **Benefits of the Regulations to the Health and Welfare of California Residents, Worker Safety, and the State's Environment:** This proposed action will continue to benefit the health and safety of California residents who use the public roads by ensuring immediate and convenient registration of all vehicles upon sale, and largely eliminating unregistered vehicles from operating on the roadways. It is unlikely these proposed regulations will have any impact on the State's environment.

#### **Additional Economic and Fiscal Impact Determinations:**

The department has made the following additional determinations regarding economic and fiscal impacts associated with this proposed regulation:

- **Cost or savings to any state agency:** None.
- **Other nondiscretionary cost or savings imposed on local agencies:** None.
- **Cost or Savings in Federal Funding to the State:** None.
- **Cost Impact on a Representative Private Person or Business:** The department is aware of a small cost impact a representative private person or business would necessarily incur in reasonable compliance with the proposed action. Some application fees are reduced, but application fees to renew a site location are added.
- **Effect on Housing Costs:** None.
- **Local Agency/School Districts Mandate:** The proposed regulation action will not impose a mandate on local agencies or school districts, or a mandate that requires reimbursement pursuant to Part 7 (commencing with section 17500) of Division 4 of the Government Code.
- **Small Business Impact:** This proposed action is unlikely to impact small businesses.

#### **IV. DEPARTMENTAL DETERMINATIONS**

- **Technical, Theoretical and/or Empirical Studies, Reports or Documents:** None relied upon.
- **Benefits Anticipated from this Regulatory Action:** The benefits derived from these proposed regulations are assurances that the application fees accurately reflect the cost to the department to process the applications, and thus maintaining cost-effectiveness and longevity of the program. The BPA program benefits millions of vehicle buyers and

sellers by conveniently facilitating registration and titling transactions from vehicle dealerships and other locations, greatly reducing the number of unregistered vehicles on California roadways.

- **Reasonable Alternatives, Including Any That Would Lessen Adverse Impact on Small Business:** No alternatives were considered or presented, including any that would lessen any adverse impact on small businesses.
- **Alternatives Considered:** No alternatives were considered that are less burdensome and equally effective at achieving these purposes.
- **Comparable Federal and State Regulations:** There are no comparable federal or state regulations. Only the department is authorized to implement vehicle registration and titling programs with approved business partners.
- **Evidence Supporting Determination of No Significant Adverse Economic Impact on Business:** The adverse impact is at most several hundred dollars for a business partner with many sites. This increased cost only occurs every three years since applications need only be submitted every three years. The department believes this sum insignificant in today's commercial setting.